IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5061 of 2005

Between:

Uduthala Mallesh Goud, s/o late U.Balanarsaiah Goud,
Owner of Hero Honda Splender Bearing No.AP-28AH-3611,

R/o. Pillaipalle Village, Pochampalli Mandal, Nalgonda District.

..... PETITIONER

AND

1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division,

Opp.Exhibition Grounds, J.N.Road, at Nampally, Hyderabad.
2 The Sub Inspector of Prohibition & Excise (SHO), Secunderabad Circle,

at Secunderabad, Hyderabad.

..... RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction more particularly one in the nature of WRIT OF MANDAMUS directing the 1st respondent to release the petitioner's vehicle bearing No.AP-28-AH-3611 Hero Honda Splendor Motor Cycle, for interim custody pending disposal of the confiscation proceedings before the 1st respondent, declaring the action of the 2nd respondent in seizure of vehicle bearing No.AP-28-AH-3611 of Hero Honda Splendor Motor Cycle in Cr.No.121 of 2004-05, dt.24-12-2004 as illegal, and pass such other order or orders which are necessary in the interest of justice.

Counsel for the Petitioner: MR.B.SAI RAM GOUD

Counsel for the Respondent Nos.1 & 2: G.P. FOR PROHIBITION & EXCISE

The Court at the stage of admission made the following

ORAL ORDER:

Heard both sides.

2. The petitioner seeks a direction to the first respondent-the Deputy Commissioner of Prohibition and Excise, to release the vehicle, Hero Honda Splendor bearing No.AP-28-AH-361, which was seized in connection with Crime No. 121 of 2004 on the file of second respondent, the Sub-Inspector of Police (Prohibition & Excise), Secunderabad circle, pending disposal of the confiscation proceedings before him.

3. It is not in dispute that upon confiscation of the vehicle in question, an appeal had been preferred by the petitioner before the first respondent, along with an interlocutory application for grant of interim custody of the vehicle. It appears that no orders have been passed so far on the said application.

4. In my considered view, the said inaction on the part of the first respondent, amounts to refusal of exercising the powers conferred upon him under the statute.

5. Having regard to the facts and circumstances, and also keeping in view the guidelines issued by this Court in ***S. Jaganmohan Reddy Vs.Prohb.& Excise Inspector, Tandur Stn*** in W.P.No.5283 of 1996, the first respondent is directed to pass appropriate orders forthwith, with regard to release of the vehicle in question, and if necessary, he

can direct the petitioner to furnish bank guarantee as determined by the Motor Vehicle Inspector concerned.

6. With the above observations, the writ petition is disposed of, at the stage of admission. No costs.

D.S.R.VARMA, J

16TH MARCH 2005

Note:

Issue CC in two days

(B/o.)

ISN/PAN

ASSISTANT REGISTRAR

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SECTION OFFICER

To

1 The Deputy Commissioner of Prohibition & Excise, Hyderabad Division,

Opp.Exhibition Grounds, J.N.Road, at Nampally, Hyderabad.

2 The Sub Inspector of Prohibition & Excise (SHO), Secunderabad Circle,

at Secunderabad, Hyderabad.

3. Two CCs to G.P. for Prohibition & Excise, High Court Buildings, Hyderabad (OUT).

4. Two CD copies

THE HON'BLE MR JUSTICE D.S.R.VARMA

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